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U.S. Citizenship
and Immigration
Services

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EA

APR 23 2004

FILE: [REDACTED] Office: NEWARK, NEW JERSEY Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Newark, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The information contained in the applicant's Form N-600, Application for Certificate of Citizenship (Form N-600) reflects that the applicant was born in Havana, Cuba, on July 26, 1985. The Form N-600 indicates that the applicant's father [REDACTED] was born in Havana, Cuba, and that he became a naturalized U.S. citizen on November 21, 2000. The Form N-600 indicates that the applicant's mother, [REDACTED] was born in Havana, Cuba, and that she became a naturalized U.S. citizen on an unknown date. The record indicates that the applicant was born out of wedlock and that his parents married on December 5, 1990, in Havana, Cuba. The applicant was admitted into the United States as a lawful permanent resident on May 23, 1991. He seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant had provided insufficient documentation to complete the adjudication of his application. Accordingly, the application was denied for lack of prosecution.

On appeal, the applicant asserts that he has attached the documentation requested by the district director for the processing of his application. In support of his assertion the applicant submits his parent's marriage certificate and a copy of his resident alien card. The applicant makes no assertions on appeal regarding his eligibility for a certificate of citizenship under section 320 of the Act, and the record contains no other documents or evidence.

Section 320 of the Act states in pertinent part that:

- (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
 - (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
 - (2) The child is under the age of eighteen years.
 - (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

The AAO notes that although the applicant states on his Application for Certificate of Citizenship, that his parents are naturalized U.S. citizens, the record itself contains no evidence of their U.S. citizenship or the date of their naturalization in the United States. The AAO notes further that the record does not contain a copy of the applicant's birth certificate, and that the marriage certificate submitted by the applicant is not translated and is undated. The record also contains no evidence to establish that the applicant has resided in the legal and physical custody of a citizen parent.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish his claimed citizenship by a preponderance of the evidence. The applicant has failed to establish who his parents are, that his parents are U.S. citizens, or that his parents became naturalized U.S. citizens prior to his 18th birthday. The applicant has additionally failed to establish that he resided in the U.S. in the legal and physical custody of a citizen parent prior to his 18th birthday. Accordingly, the applicant has failed to establish that he qualifies for citizenship under section 320 of the Act, and the appeal will be dismissed.

ORDER: The appeal is dismissed.